

VAT partial exemption claims – Direct and immediate link

[Nathaniel & Co Solicitors and HMRC; Cirencester Rugby Football Club and HMRC](#)

Summary

There have been two First Tier Tribunal decisions on issues which affect a large number of businesses:-

Nathaniel & Co Solicitors concerns what constitutes a valid claim made under reg 37 of the Value Added Tax Regulations 1995 (SI 1995/2518).

Cirencester Rugby Football Club concerns the direct and immediate link of inputs with outputs to secure deduction - the boundary between directly attributable and residual inputs.

Background

Nathaniel & Co Solicitors: [2010] UKFTT 472 (TC);

The issue in this case was whether a voluntary disclosure, said to have been submitted by the taxpayer, met the conditions in reg 37 (Value Added Tax Regulations 1995 (SI 1995/2518)) for being a validly made claim for overpaid VAT. It is necessary to meet such conditions not only in respect of the quantum being claimed, but also in terms of detailing the method by which that amount has been calculated. In this instance, the Tribunal considered that the conditions had not been met and dismissed the appeal.

Businesses should ensure that any claims for overpaid output tax are made by reference to both quantum and methodology.

Cirencester Rugby Football Club: [2010] UKFTT 453 (TC);

The Taxpayer incurred expenditure in constructing a new pitch. The issue was whether those costs related solely to exempt sports services or whether they also had the necessary sufficient link with taxable supplies of pitch side advertising. HMRC argued that the input VAT on the construction of the pitch could not be attributed to the pitch side advertising. The Tribunal disagreed and held that there was a direct and immediate link between the cost of development of the pitch and the taxable supply of advertising rights.

Looking beyond the facts of this case, the boundary between direct and immediate link to taxable (or exempt) supplies and residual costs can have significant financial consequences. (It is worth

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bearing in mind that the necessary link following the Court of Appeal decision in Mayflower Theatre Trust is for a sufficient link and not for the closest link).

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